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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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27268	7590	04/07/2006	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			CHYN, AILEEN	
			ART UNIT	PAPER NUMBER
			3715	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,829

Applicant(s)

EVANS ET AL.

Examiner

Aileen Chyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications through the applicant's amendment filed on 12/21/2004. Claims 1-16 are pending.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because the abstract is over 150 words. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

On page 1, section [0003], "WPQ" should be initially defined. All acronyms/abbreviations must be defined upon first use. Appropriate correction is required.

On page 2, section [0003], "PASAPT " should be initially defined. All acronyms/abbreviations must be defined upon first use. Appropriate correction is required.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In section [0016] of the specification, "A "competency" is a cluster of capabilities that have been honed and developed into a level of expertise." and [0024], "Competencies may include a plurality of individual attributes. "Attributes" are personal qualities that influence competency and as such may be used to measure one's capability to accomplish behavior in a competency." The definition of "competency" and "attributes" are considered new matter in the specification and therefore claims 1-16 are rejected as failing to comply with the written description requirement.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 5-7, 9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al., "Wood" (Pat. Pub. No. US 2002/0045154 A1) in view of Walters et al., "Walters" (Pat. Pub. No. US 2004/0053203 A1)

With respect to claim 1, Wood discloses an analytical method comprising the steps of:

providing a plurality of individual capability tests, (abstract, "determining personal characteristics of an individual or group... incorporates several personality dimensions... psychographics"; Figure 5 (elements 1330-1333) depicts a plurality of individual capability tests; page 4, section [0076], "the user is asked at 1100, to select one of many tests(s), quiz(zes), or sorter(s), and retrieves a set of questions from the test question database 1200);

obtaining responses to the plurality of questions of each of the plurality of individual capability tests from the individual (Figure 3 depicts a plurality of questions; page 5, section [0143], "The user may be asked questions about finances, career, human relationships, education, or business") and

cross-referencing the responses to a plurality of questions of at least two of the plurality of individual capability tests, to create a comprehensive individual capability evaluation (page 6, section [0165], "How the user responds is stored in the database and used in conjunction with the other raw data collected. The answers are stored into the user's profile", wherein multiple tests "USED IN CONJUNCTION" is analogous to "CROSS-REFERENCING" responses to a plurality of questions of at least two of a

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plurality of tests; page 6, section [0167], "The first is data from behavior observed offline during role-play... The second way is to measure the data directly by observing the user in role-play"; page 6, section [0168], "If more testing is required...", wherein more testing is analogous to at least two of a plurality of individual capability tests; page 8, section [0181], "raw data is provided by each user via their answers and behaviors... are scored and compiled by algorithms and standardized into alphanumeric representations... so that the user's profile can be compared to personality models and profiles of others").

However, Wood does not explicitly disclose the individual capability tests each having a plurality of questions used to assess a plurality of attributes associated with at least one of the plurality of competencies; and rating the plurality of competencies of an individual.

Walters discloses a system and method for evaluating applicants with multiple evaluation instruments for various types of entities wherein the individual capability tests each having a plurality of questions used to assess a plurality of attributes associated with at least one of the plurality of competencies (Figure 11 depicts an individual capability test, assessing a plurality of attributes (Numbers 1-5 under motivation), associated with at least one of a plurality of competencies ("Motivation")); and

rating the plurality of competencies of an individual (Figure 12 depicts the rating of the competencies; page 3, section [0036], "the evaluation may include assigning one or more scores to the applicant based on the applicant's data... An applicant may receive a construct value (e.g., a score for each construct) for each evaluated construct. A final evaluation score may be calculated based on the construct values... Applicant

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rankings may be generated based on the comparison.”; page 4, section [0055], “ FIGS. 7-11 illustrate embodiments of evaluation instruments that may be used in the invention. ...FIG. 7 is an example of an embodiment of an applicant rating form that uses a behaviorally-anchored format. The rating form includes a range of descriptions regarding an applicant's level of a construct... Construct values may be assigned based on ratings provided in the form or ratings provided in forms shown in any of FIGS. 7-11.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a capability tests to rate a plurality of competencies used to assess a plurality of attributes associated with at least one competency as disclosed by Walters into the method for standardizing and evaluating testing protocol for determining personal characteristics as disclosed by Wood to provide a system and method for quantitative and standardized evaluation of applicants for selection by an entity, to allow for the generation of data for applicant pools based on empirically-established constructs (page 1, section [0001], page 2, sections [0027] and [0030]). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

Claim 2 is rejected for the reasons set forth hereinabove for claim 1 and furthermore the combination of Wood and Walters disclose a method wherein said cross-referencing step includes creating a plurality of hallmark analysis within the comprehensive individual capability evaluation, each one of the plurality of hallmark analysis relating to a specific quality of the individual (Walters, page 3, section [0037], “a score with a summary of open-ended comments may be added to a score report.

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Evaluation techniques may also include aggregating numeric responses for each construct, averaging across raters, and /or weighting responses.”; Wood, page 8, section [0179], “compiled by algorithms and standardized into alphanumeric representations...”; Wood, page 8, section [0188], “weighted averages”; Wood, page 8, section [0192]; Wood, page 13, section [0318], “match people based upon the closeness of measured characteristics. The matching would occur using a weighting scheme for all possible characteristics giving more weight and importance to certain characteristics. “;Wood, page 14, section [0333], “The system also incorporates variations to the above algorithms based on different weighting of answers, different weighting of scales, and incorporation of other models and all data gathered in module 1000. “, each analysis is in relation to a specific quality of an individual; Wood, page 9, sections [0198]-[0208]).

Claim 3 is rejected for the reasons set forth hereinabove for claim 1 and furthermore the combination of Wood and Walters disclose a method wherein said plurality of questions relate to one of the set of competencies including: Integrity, Continuous Learning, Speed/Initiative, Energized Team-building, Quality/Customer Oriented, Extraordinary Results, Effective Communication, Financial Literacy, Strategic Focus, and Emotional Maturity (Walters, Figure 14, “Emotional Stability/Maturity... Integrity... Leadership... Motivation... Oral Communication Skills... Teamwork... Written communication skills”; Wood, page 5, section [0124], “Emotional Intelligence”; Wood, page 5, section [0143], “questions about finances...”).

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Claims 5-7 are rejected on grounds corresponding to reasons given above for claims 1-3.

Claims 9 and 11-12 are rejected on grounds corresponding to reasons given above for claims 1-3.

Claim 13 is rejected for the reasons set forth hereinabove for claim 9 and furthermore the combination of Wood and Walters disclose a method wherein 13 said providing step includes using an interactive computer server accessible over a computer network (Wood, page 4, section [0067], "Referring now to FIG. 1 of the drawings, a simplified diagram is presented illustrating a computer network environment ... a user 10 may use his computer to visit a system proprietor's website running on the Internet, an Intranet, an Extranet, or any other electronic media platform 14. The top half of FIG. 1 illustrates one user accessing the system from a single computer terminal 10 via an internet connection which may include a server 16.").

9. Claims 4, 8, 10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al., "Wood" (Pat. Pub. No. US 2002/0045154 A1) in view of Walters et al., "Walters" (Pat. Pub. No. US 2004/0053203 A1) and further in view of Taub (US Pat. No. 6,341,267 B1).

10. Claim 4 is rejected for the reasons set forth hereinabove for claim 1 and furthermore the combination of Wood and Walters disclose a comprehensive individual capability evaluation report identifying areas of improvement (Walters, Figure 12, "Areas for Improvement")

However, the combination of Wood and Walters do not explicitly disclose the step of creating an individual action plan containing a listing of transformational activities for enabling the individual to improve identified areas.

Taub discloses a method/system and apparatus for matching individuals with behavioral requirements and for managing providers of services further comprising the step of creating an individual action plan containing a listing of transformational activities for enabling the individual to improve identified areas (abstract, "to evaluate or select intervention strategies of furthering individual's attainment of required abilities", wherein "STRATEGIES OF...INDIVIDUAL'S ATTAINMENT OF ABILITIES" is analogous to "CREATING AN INDIVIDUAL ACTION PLAN CONTAINING A LISTING OF TRANSFORMATIONAL ACTIVITIES"; col. 21, lines 25-36, "If it is decided as depicted in block 236 that it is desired to continue the process to identify intervention strategies that can effect improvement in a level of the individual's attainment of required abilities...identifying roles and situations for individuals which have ability requirements for successful performance within the attained capabilities of the individual in all domains."; col. 23, lines 54-58, "It is anticipated that the processes described as depicted in FIGS. 2g and 2h may be applied to any intervention targeted to affect behavioral capabilities including instruction, self-study, formal or on-job training, practice, therapy, and medical treatments.", wherein the intervention is analogous to activities.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the step of creating an individual action plan

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containing a listing of transformational activities as disclosed by Taub into the method for determining individual characteristics and evaluating applicants as disclosed by the combination of Wood and Walters to provide an evaluation system for the capabilities of providers of services targeted to increase individual's capabilities and to more effectively and accurately match them with the needs of students-trainees-patients and to facilitate the further attainment of human capabilities (col. 3, lines 65- col. 4, line 1, and col. 4, lines 48-49). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

Claims 8 and 9 are rejected on grounds corresponding to reasons given above for claim 4.

Claim 14 is rejected on grounds corresponding to reasons given above for claims 1 and 4.

Claims 15-16 are rejected on grounds corresponding to reasons given above for claims 2-3.

Response to Arguments

11. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

12. The amendment filed 12/21/2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

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In section [0016] of the specification, "A "competency" is a cluster of capabilities that have been honed and developed into a level of expertise." and in section [0024], "Competencies may include a plurality of individual attributes. "Attributes" are personal qualities that influence competency and as such may be used to measure one's capability to accomplish behavior in a competency."

Applicant is required to cancel the new matter in the reply to this Office Action.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ogden. (U.S. Pat. No. 6,311,164 B1) discloses remote job application method;

Nashner (U.S. Pat. No. 5,980,429) discloses a performance assessment with a training task prescription; and

Hersh (U.S. Pub. No. 2002/0106617 A1) discloses vocational testing for placement including aptitude list tested for.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Contact Information

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen Chyn whose telephone number is 571-272-7176. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 2, 2006
A.C.


MONICA CARTER
SUPERVISORY PATENT EXAMINER